IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 138 OF 2005

SHRI PANDURANG ALIAS SHASHI DESSAI ....Petitioner

Versus

SMT.BERALDIN T.TAVARES ....Respondent

Mr. Sudesh Usgaonkar, Advocate for the petitioner.

Coram:- R. M. LODHA, J.

Date:- 14th October, 2005

P.C.

Heard Mr. Sudesh Usgaonkar, the learned Counsel for the petitioner.

2. Both the Courts below have concurrently held that the plaintiff (respondent) has been able to etablish the prima facie case in respect of the suit property bearing Survey No. 313/1 of Village Cuncolim. The balance of convenience and the irreparbale loss have also been found in favour of the plaintiff (respondent).

3. The findings have been arrived at on the basis of the available material and it cannot be said that the findings are vitiated because of perversity or any error of jurisdiction.

4. The observations made by the Appeal Court in paragraph 9 of the order in relation to the order of Joint Mamlatdar are only for the purpose of consideration of the application for grant of temporary injunction. The issue whether the order of the Joint Mamlatdar dated 15.5.2000 is vitiated by fraud, if put in issue during the trial, shall obviously be examined on its merits at the time of decision of the suit.

5. With the aforesaid observation, the writ petition is dismissed in limine.

R. M. LODHA, J.

ssm.